

# SENATE, No. 735

## STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Senator THOMAS H. KEAN, JR.**

**District 21 (Morris, Somerset and Union)**

**Co-Sponsored by:**

**Senators Oroho, A.R.Bucco and Pennacchio**

**SYNOPSIS**

Creates crime of home invasion; makes crime subject to No Early Release Act.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning home invasion and amending N.J.S.2C:18-2  
2 and P.L.1997, c.117.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. N.J.S.2C:18-2 is amended to read as follows:

8 2C:18-2. Burglary. a. Burglary defined. A person is guilty of  
9 burglary if, with purpose to commit an offense therein or thereon  
10 he:

11 (1) Enters a research facility, structure, or a separately secured  
12 or occupied portion thereof unless the structure was at the time  
13 open to the public or the actor is licensed or privileged to enter;

14 (2) Surreptitiously remains in a research facility, structure, or a  
15 separately secured or occupied portion thereof knowing that he is  
16 not licensed or privileged to do so; or

17 (3) Trespasses in or upon utility company property where public  
18 notice prohibiting trespass is given by conspicuous posting, or  
19 fencing or other enclosure manifestly designed to exclude intruders.

20 b. Grading. Burglary is a crime of the second degree if in the  
21 course of committing the offense, the actor:

22 (1) Purposely, knowingly or recklessly inflicts, attempts to  
23 inflict or threatens to inflict bodily injury on anyone; or

24 (2) Is armed with or displays what appear to be explosives or a  
25 deadly weapon.

26 Otherwise burglary is a crime of the third degree. An act shall  
27 be deemed "in the course of committing" an offense if it occurs in  
28 an attempt to commit an offense or in immediate flight after the  
29 attempt or commission.

30 c. A person is guilty of home invasion if, with purpose to  
31 commit an offense therein or thereon, he unlawfully enters or  
32 surreptitiously remains in a person's residence and purposely,  
33 knowingly or recklessly places the homeowner or other occupant in  
34 fear of bodily injury.

35 Home invasion is a crime of the second degree.

36 (cf: P.L.2009, c.283, s.2)

37  
38 2. Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is amended to  
39 read as follows:

40 2. a. A court imposing a sentence of incarceration for a crime  
41 of the first or second degree enumerated in subsection d. of this  
42 section shall fix a minimum term of 85% of the sentence imposed,  
43 during which the defendant shall not be eligible for parole.

44 b. The minimum term required by subsection a. of this section  
45 shall be fixed as a part of every sentence of incarceration imposed

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 upon every conviction of a crime enumerated in subsection d. of  
2 this section, whether the sentence of incarceration is determined  
3 pursuant to N.J.S.2C:43-6, N.J.S.2C:43-7, N.J.S.2C:11-3 or any  
4 other provision of law, and shall be calculated based upon the  
5 sentence of incarceration actually imposed. The provisions of  
6 subsection a. of this section shall not be construed or applied to  
7 reduce the time that must be served before eligibility for parole by  
8 an inmate sentenced to a mandatory minimum period of  
9 incarceration. Solely for the purpose of calculating the minimum  
10 term of parole ineligibility pursuant to subsection a. of this section,  
11 a sentence of life imprisonment shall be deemed to be 75 years.

12 c. Notwithstanding any other provision of law to the contrary  
13 and in addition to any other sentence imposed, a court imposing a  
14 minimum period of parole ineligibility of 85 percent of the sentence  
15 pursuant to this section shall also impose a five-year term of parole  
16 supervision if the defendant is being sentenced for a crime of the  
17 first degree, or a three-year term of parole supervision if the  
18 defendant is being sentenced for a crime of the second degree. The  
19 term of parole supervision shall commence upon the completion of  
20 the sentence of incarceration imposed by the court pursuant to  
21 subsection a. of this section unless the defendant is serving a  
22 sentence of incarceration for another crime at the time he completes  
23 the sentence of incarceration imposed pursuant to subsection a., in  
24 which case the term of parole supervision shall commence  
25 immediately upon the defendant's release from incarceration.  
26 During the term of parole supervision the defendant shall remain in  
27 release status in the community in the legal custody of the  
28 Commissioner of the Department of Corrections and shall be  
29 supervised by the State Parole Board as if on parole and shall be  
30 subject to the provisions and conditions of section 3 of P.L.1997,  
31 c.117 (C.30:4-123.51b).

32 d. The court shall impose sentence pursuant to subsection a. of  
33 this section upon conviction of the following crimes or an attempt  
34 or conspiracy to commit any of these crimes:

- 35 (1) N.J.S.2C:11-3, murder;
- 36 (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;
- 37 (3) N.J.S.2C:11-5, vehicular homicide;
- 38 (4) subsection b. of N.J.S.2C:12-1, aggravated assault;
- 39 (5) subsection b. of section 1 of P.L.1996, c.14 (2C:12-11),  
40 disarming a law enforcement officer;
- 41 (6) N.J.S.2C:13-1, kidnapping;
- 42 (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;
- 43 (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of  
44 subsection c. of N.J.S.2C:14-2, sexual assault;
- 45 (9) N.J.S.2C:15-1, robbery;
- 46 (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;

- 1 (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated  
2 arson;  
3 (12) subsection b. of N.J.S.2C:18-2, burglary;  
4 (13) subsection a. of N.J.S.2C:20-5, extortion;  
5 (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1),  
6 booby traps in manufacturing or distribution facilities;  
7 (15) N.J.S.2C:35-9, strict liability for drug induced deaths;  
8 (16) section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism;  
9 (17) section 3 of P.L.2002, c.26 (C.2C:38-3), producing or  
10 possessing chemical weapons, biological agents or nuclear or  
11 radiological devices; **[or]**  
12 (18) N.J.S.2C:41-2, racketeering, when it is a crime of the first  
13 degree; or  
14 (19) subsection c. of N.J.S.2C:18-2, home invasion.  
15 e. (Deleted by amendment, P.L.2001, c.129).  
16 (cf: P.L.2007, c.341, s.6)

17  
18 3. This act shall take effect immediately.

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20  
21 STATEMENT

22  
23 This bill creates the crime of home invasion and makes this  
24 crime subject to the No Early Release Act (NERA).

25 Under the provisions of this bill, a person commits the crime of  
26 home invasion if he or she unlawfully enters a person's residence  
27 with the intent to commit an offense and places the homeowner or  
28 other occupant in fear of bodily injury. Under this bill, home  
29 invasion is a crime of the second degree.

30 A second degree crime is punishable by five to 10 years  
31 imprisonment, a fine of up to \$150,000, or both.

32 In addition, the bill provides that a person who is convicted of  
33 the crime of home invasion is subject to sentencing under the  
34 NERA. A person sentenced under the NERA is required to serve  
35 85% of the sentence imposed, during which he or she would not be  
36 eligible for parole.